

**UNITED STATES OF AMERICA
BEFORE THE NATIONAL LABOR RELATIONS BOARD
SEVENTH REGION**

MEMORIAL HEALTHCARE¹

Employer

and

Case 7-RC-22881

**MICHIGAN COUNCIL 25, AMERICAN
FEDERATION OF STATE, COUNTY, AND
MUNICIPAL EMPLOYEES (AFSCME),
AFL-CIO²**

Petitioner

APPEARANCES:

Eric I. Frankie, of Detroit, MI, for the Petitioner
Craig M. Stanley, of Detroit, MI, for the Employer

DECISION AND DIRECTION OF ELECTION

Upon a petition filed under Section 9(c) of the National Labor Relations Act, a hearing was held before a hearing officer of the National Labor Relations Board.

Pursuant to the provisions of Section 3(b) of the Act, the Board has delegated its authority in this proceeding to the undersigned.

Upon the entire record in this proceeding³, the undersigned finds:

1. The hearing officer's rulings are free from prejudicial error and are hereby affirmed.

2. The Employer is engaged in commerce within the meaning of the Act and it will effectuate the purposes of the Act to assert jurisdiction herein.

¹ The name of the Employer appears as amended at hearing.

² The name of the Petitioner appears as amended at hearing.

³ The Employer and Petitioner filed briefs, which were carefully considered.

3. The labor organization involved claims to represent certain employees of the Employer.

4. A question affecting commerce exists concerning the representation of certain employees of the Employer within the meaning of Section 9(c)(1) and Sections 2(6) and (7) of the Act.

The Petitioner seeks to represent a unit of approximately 350 full-time, regular part-time and contingent nonprofessional employees, including activity techs, anesthesia assistants, clerks, cooks, couriers, CP assistants, custodians, diet office aides/cashiers, dietary office clerks, dietary secretaries, dietary techs, discharge clerks, education department secretaries, exchange cart room assistants, home health aides, home health hospice secretaries, hospice support, housekeeping aides, instrument nurse techs, intake specialists, lab tech assistants, laundry aides, long-term care techs, medical records techs, mobile meals setup/delivery techs, nurse techs, patient care secretaries, patient care techs, patient registration clerks, patient support assistants, pharmacy computer specialists, pharmacy techs one, phlebotomist/tech assistants, physical therapy techs, production, receptionists, receiving clerks, secretaries, scheduling secretaries, specialty techs, sterile process techs, store room assistants, switchboard operators/communications clerks, tech assistants, transcriptionists, and washers employed by the Employer at its facilities located at 826 West King Street, Owosso, Michigan; 1484 North M-52, Owosso; 1488 North M 52, Owosso; 239 North State Road, Owosso; 9099 East Lansing Road, Durand, Michigan; 3337 West Britton Road, Perry, Michigan; 114 West North Street, Owosso; 8906 East Lansing, Durand, Michigan; and 305 South Saginaw, Chesaning, Michigan; but excluding all physicians, registered nurses, other professionals, technical records coordinators, coders, department head secretaries, administrative/executive assistants to the president or vice presidents, human resource coordinators, community health ministry liaisons, professional intake specialists, patient care supervisors, business office clerical employees, technical employees, maintenance employees, managerial employees, confidential employees, and guards and supervisors as defined in the Act.

The Employer asserts that the only appropriate unit must also include receptionists, medical assistants, file clerks, transcriptionists and coder analysts employed by the Employer at its Memorial Medical Associates (MMA) facilities located at 239 North State Road, Owosso, Michigan; 8906 East Lansing, Durand, Michigan; 3337 West Britton Road, Perry, Michigan; 113 South Main Street, Ovid, Michigan; 300 South Chapman, Chesaning, Michigan; 9000 East Pete Road, Chesaning, Michigan; 7200 North Woodbury Road, Laingsburg, Michigan; 225 South Ovid, Elsie, Michigan; and 1470-1490 North M-52, Owosso, Michigan. The Employer also contends that call center specialists, chefs, diet office techs, education department coordinators, maintenance employees, non-MMA medical assistants, nurse externs, radiology lab clerks, release of

info techs, safety/physical plant secretaries, shuttle drivers, sitters,⁴ staff schedulers, student nurse techs, surgical service secretaries, and telemetry techs employed by the Employer at its main campus location and other outlying facilities should be included in the unit. Finally, the Employer asserts that pharmacy computer specialists, specialty techs, switchboard operators/ communications clerks, intake specialists and surgery inventory coordinators sought by Petitioner must be excluded from the unit.⁵

I find, based on Petitioner already seeking certain facilities away from the main campus, the geographic proximity to petitioned-for departments, similar or identical job descriptions to employees in the petitioned-for unit, similar or identical terms and conditions of employment, centralization of administration, functional integration with the Employer's other departments, and interchange with other employees, that the scope of the unit should include employees at all the MMA facilities. I further find that call center specialists, chefs, coder analysts, diet office techs, education department coordinators, file clerks, medical assistants, nurse externs, radiology lab clerks, receptionists, release of info techs, safety/physical plant secretaries, shuttle drivers, sitters, staffing schedulers, student nurse techs, surgical service secretaries, switchboard operators/communication clerks, telemetry techs, and transcriptionists should be included in the appropriate unit. Finally, I find that the maintenance employees belong in a skilled maintenance unit and are excluded from the appropriate unit.

Employer's Operations

The Employer operates a 148-bed acute care facility and several outlying clinics, physician offices, and radiology and laboratory facilities. The hospital is on the Employer's main campus located at 826 West King Street in Owosso, Michigan. The main campus consists of a main hospital building with some additional buildings attached. The purchasing department, information technology, risk management, maintenance department, and human resources department are located on the main campus. The Employer also leases space in a "strip mall" area on North M-52 in Owosso. In the leased offices are the Employer's business offices, billing office, accounting department, physical therapy office, "Healthy Images" weight loss program, home health program, and a physician's office. The Employer offers outpatient lab, X-ray, and physical and occupational therapy at its locations at 239 North State Road, Owosso and 305 South Saginaw Street, Chesaning. It offers urgent care services at its location at 300 South Chapman in Chesaning. It offers lab, X-ray and urgent care services at its location at 9099 East Lansing Road in Durand, and physical and occupational therapy and sports medicine at its location at 8906 East Lansing in Durand. It also offers urgent care services at its location at 3337 West Britton Road in Perry. The

⁴ The parties stipulated to the inclusion of sitters.

⁵ In its brief, Petitioner agreed, and I find, that the pharmacy computer specialists, specialty techs, intake specialists, and surgery inventory coordinators should be excluded from the unit.

facility at 114 West North Street, Owosso is a woman's center. The facilities in Elsie, Laingsburg, Ovid and at 9000 East Pete Road, Chesaning are physicians' offices.

Cheryl Peterson is the president and chief executive officer of Memorial Healthcare. She reports to the hospital's board of trustees. There are five vice presidents. Tom Ogg is the vice president of information and support services. He oversees health information, which includes the medical records, registration, transcription, coding, and switchboard departments. He also oversees information services, HIPAA compliance, telecommunications, support services (which includes the Healthy Images weight loss program, housekeeping, laundry, and food services) and the diagnostic imaging department on the main campus. Kathy Roberts is interim vice president of patient care services. She oversees acute services, diagnostic services, professional services, critical/post-acute services, and risk management. Michael Grisdela is the vice president of administration and the chief financial officer. He oversees accounting, patient accounts, budget and reimbursement, Memorial Medical Associates (MMA), business development, physician services, and the facilities department. Geoff Washburn is the vice president of human resources and the corporate compliance officer. He oversees human resources and volunteer services. Dr. Robert Clifford is a vice president and the hospital's medical director, and oversees the medical staff office and credentialing.

Memorial Medical Associates offices (MMA) are physician offices located both on Memorial Healthcare's main campus and at its satellite locations. The physicians in these offices are employed by the Employer and refer most of their patients to the Employer's main campus hospital. The MMA offices are located at 8906 East Lansing, Durand, Michigan; 3337 West Britton Road, Perry, Michigan; 113 South Main Street, Ovid, Michigan; 300 South Chapman, Chesaning, Michigan; 9000 East Pete Road, Chesaning, Michigan; 7200 North Woodbury Road, Laingsburg, Michigan; 225 South Ovid, Elsie, Michigan; 239 North State Road, Owosso, Michigan; and 1470-1488 North M-52, Owosso, Michigan.

MMA Facilities

The MMA department was created by the Employer to expand its market share in Owosso and the communities surrounding Owosso. Its physicians and employees are employees of the Employer. The physicians are hired by the Memorial Healthcare executive committee. Niel Nielsen is the director of MMA. He reports to the Employer's vice-president of administration and chief financial officer, Michael Grisdela, who also oversees the business office and physician recruitment. Grisdela has the final say in setting MMA office hours and creating new positions in the MMA offices. The Employer's president and CEO Cheryl Peterson has final approval over the MMA budget.

MMA does not have its own state or federal ID number for regulation purposes, but falls under the identification number of Memorial Healthcare. Memorial Healthcare managers assigned to MMA supervise the day-to-day operation of the MMA offices. Those practice managers, Joyce Bremmer, Gay Rau, Beth Jones and Kim Poag, split their time between several MMA locations. The MMA physicians refer about 90% of their patients in need of hospital referrals to the Employer's main campus hospital. Those patients are not formally discharged from the physician's office and readmitted to the hospital. Instead, they are admitted directly to a hospital floor.

There are 4 receptionists, 5 medical assistants, and 1 part-time file clerk in the two Chesaning locations. In the Durand location there are 4 receptionists, 5 medical assistants, and a file clerk. In the Elsie location there are a receptionist, 2 medical assistants, and a radiology tech. In Laingsburg there are 2 receptionists, 2 medical assistants and a file clerk. In Ovid there are 2 receptionists and 2 medical assistants. In Perry there are 5 receptionists, 5 medical assistants, a radiology tech and a file clerk. At the main campus MMA offices in Owosso there are a total of 4 receptionists and 2 medical assistants. There is also an MMA physician in the "strip mall" on M-52 in Owosso where the Employer's business offices and other departments are located. There are a receptionist and 2 medical assistants at that location. There are between 6 to 8 coder analysts at the M-52 location. There are also two MMA transcriptionists at undisclosed locations.

Scope of the unit

The factors used in determining the appropriateness of a multi-facility unit are: employee skills and duties; terms and conditions of employment; employee interchange; functional integration, geographic proximity; centralized control of management and supervision; and bargaining history. *Stormont-Vail Healthcare, Inc.*, 340 NLRB No. 143, slip op. at 3 (Nov. 28, 2003).

Employee skills and duties

MMA receptionists

The receptionists greet patients in the MMA offices and take their information as they come in. The pay rate for the position is between \$8 and \$10 per hour. No special training or certification other than a high school diploma is required. Receptionists sometimes float from one location to another. The duties and pay of the MMA receptionists are similar to that of the main campus receptionists included in the petitioned-for unit.

MMA medical assistants

Medical assistants in the MMA offices walk patients to examining rooms and do general assessments of them. They do basic vitals, such as taking the patient's blood pressure and pulse, document the vitals for the treating physician, and assist the physician with procedures. There are employees with the title of medical assistant in non-MMA locations. They work in the Employer's weight loss and pain clinics, located in its Owosso "strip mall" location.

MMA file clerks

File clerks at the MMA locations file documents in patient records, make copies, and perform other basic clerical functions. They report to the department manager of their assigned department. No special education or certification other than a high school diploma is required for the position. The position pays between \$7 and \$8 per hour. There are also file clerks in the Employer's main business office on North 52 in Owosso. The file clerks in the business office are on the same pay scale as the clerks in the MMA offices. The main campus hospital also has clerks, included in the petitioned-for unit, who do basic filing and clerical tasks.

MMA coder analysts

Coder analysts prepare charts for insurance billing purposes. They work from a series of about 20 codes. About six weeks of training is required for the position. The coder analysts are all located in the MMA offices located at North M-52 in Owosso. The coder analyst position is not the same as the coder position located in the Employer's business office at North M-52. That position is excluded from the petitioned-for unit and the Employer has not challenged that exclusion. The coder position requires extensive knowledge of hundreds of codes and about two years of education. The main campus coder position pays about \$4 per hour more than the MMA coder analyst position.

MMA transcriptionists

The MMA transcriptionists transcribe orders from dictated material or charts made by physicians. Some basic medical terminology background is required for the position. There are 2 MMA transcriptionists and approximately 12 main campus transcriptionists. The main campus transcriptionists are included in the petitioned-for unit and have the same pay scale and similar job duties as the MMA transcriptionists.

Terms and conditions of employment

The Employer's human resources department sets pay rates for MMA and non-MMA employees. The Employer has an employee handbook that applies to all employees, both at the main campus hospital and in its outlying offices, including the MMA offices. All employees have the same Employer sponsored plan for health care, life insurance, and retirement benefits. The Employer has one seniority list for all employees. There is a system-wide dress code for all employees. Each department, including MMA offices, has the discretion to set its own department dress code within the confines of the Employer's code. All employees wear identical Memorial Healthcare badges. All employees are subject to the same probationary period when hired.

The Employer has a cafeteria on its main campus, where all employees, including MMA employees, receive a discount. The MMA employees on the Employer's main campus have the same access to the cafeteria as other employees on the main campus. The Employer has a discount arrangement with the Owosso YMCA for all employees, and pays the initiation fee for all employees.

Functional integration and employee interchange

MMA employees do not visit the Employer's main campus on a regular basis. They attend new employee orientation meetings and annual safety meetings on the main campus. They may occasionally visit the main campus for supplies, or to get forms or records from the human resources office. Maintenance employees from the main campus are assigned to visit the MMA locations on a rotating basis, and pharmacy employees go to the MMA offices regularly to do audits and educate staff. Human resource personnel and risk management staff from the main campus also visit the MMA offices on a regular basis. The Employer hosts occasional picnics and other social functions for employees. All employees, including MMA employees, are invited to these functions.

MMA receptionists speak with employees at the Employer's main campus hospital on a regular basis to schedule appointments for MMA patients at the hospital. This interchange might be with the call center, the laboratory, radiology, surgery, or another department depending on the needs of the patient. Six MMA offices are located in the same facility as non-MMA departments. There is a "float pool" of MMA receptionists and medical assistants who go from facility to facility as needed.

The hospital and MMA offices have shared registration software. Patients who are referred from the MMA offices can be admitted directly to the hospital floor. MMA employees punch in on a system-wide phone system using a dial code. Paychecks for all employees are issued from the same source and are identical in appearance. The Employer has a system-wide interoffice mail service. MMA locations are part of that

service and receive delivery of interoffice mail.

If an employee transfers from an MMA office to the main campus, he or she is treated as a transfer and does not lose seniority. In the first half of 2005, two employees moved from jobs at the main hospital to jobs at MMA physician's offices.

Geographic proximity

The Elsie MMA office is located about 17 miles from the Employer's main campus in Owosso. The Ovid office is about 13 miles away. The Durand office is also located about 13 miles from the main campus, and on the same street as the Durand location in the petitioned-for unit. The Chesaning MMA locations are about 15 miles away from the main campus and a mile away from the Chesaning location in the petitioned-for unit. The Perry MMA office is about 14 miles from the main campus at the same address as the urgent care address included in the petitioned-for unit.

Centralized control of management and supervision

Personnel records for all employees are kept on the main campus in the human resources office. MMA physicians do not have access to MMA employees' files. The Employer has a standard job evaluation form that is used for all employees. Open MMA positions are posted on a system-wide basis. All employees employed by the Employer at its main and outlying locations have access to these postings via the Employer's intranet system. The Employer also posts open jobs on a bulletin board located at its main campus. The Employer has one application that is used for all open positions, both MMA and non-MMA. Applications for all positions go to the human resources office on the Employer's main campus. The practice manager who oversees the MMA office with the open position reviews all the applications for that position with Niel Nielsen. They then select three applications for final review by the practitioner physician. The practitioner's choice is given great weight and Nielsen testified that he will hire the applicant chosen by the practitioner even if he disagrees with the choice. Employees in MMA and non-MMA positions may apply for open positions in other departments.

The Employer has a four-step disciplinary process for all of its employees: verbal counseling, written counseling, suspension, and termination. All managers, both MMA and non-MMA, may issue verbal and written counseling without consulting the human resources department. Suspensions may be issued only in consultation with the human resources department. Geoffrey Washburn, the Employer's vice-president of human resources, makes all final decisions with regard to suspensions. The human resources department and the hospital president make all termination decisions.

Physicians in the MMA offices may recommend discipline, but may not discipline or discharge an employee even in extreme circumstances. The Employer may initiate discipline against an employee in an MMA office without consulting with the physician, although the physician is almost always informed of the planned action. The Employer has initiated discipline for abuse of overtime, tardiness and other attendance issues without first being contacted by the physician.

Bargaining history

There is no bargaining history in any of the proposed bargaining units.

Additional Inclusions Sought by the Employer

The Employer asserts that the following classifications must also be included in the petitioned-for unit of nonprofessionals.

Call center specialists

Call center specialists are the point of contact for physicians and patients calling to schedule appointments and procedures at the hospital. They work on the third floor of the Employer's main campus location. There are between six to eight employees in this position. They earn between \$10 to \$11 per hour. The position requires no special certification or training other than a high school diploma. They report to the director of medical information, Rana Schwartz.

Chef

The chef works in the kitchen at the Employer's main campus location. She earns about \$14 per hour. Cooks, who are included in the petitioned-for unit, make about \$12 per hour. The chef and the cooks have the same benefits. The chef position requires more experience than that of a cook, but no special licensing or certification. The chef reports to the director of dietary, Jim Mongrain. The chef does not have a separate office, but shares office space with the kitchen employees. Approximately 80% of the chef's time is spent in cooking and food preparation. The remainder of the time is spent staffing the kitchen and coordinating menus. The chef is responsible for ensuring that the kitchen is adequately staffed. She may request that an employee come in, but may not demand it. The chef does not set the cafeteria hours of operation and cannot hire, fire, evaluate, or discipline employees.

Diet office techs

The Employer asserts that the dietary office clerk included in the petitioned-for unit does not exist and that the actual title is diet office tech. The Petitioner did not

present any evidence to rebut this assertion. There are two or three diet office techs who report to Jim Mongrain, the director of dietary. These employees take meal orders from patients, assist in putting together menus, and perform clerical functions. They earn approximately \$9 per hour. No special licenses, certification or education are required for this position.

Education department coordinator

The education department coordinator works in the education office on the third floor of the Employer's main campus. The position entails answering phones and providing clerical support to the educational staff. There is one employee in this position, making about \$10 per hour. No special certification or training is required. The coordinator reports to the director of risk management.

Maintenance employees

The three or four general maintenance employees report to Brian White, the director of plant operations. The plant operations office is located on the main campus. No license or certification is required for this position, only a high school diploma. General maintenance employees wear a uniform consisting of a brown shirt and brown shorts or pants. Their pay is between \$10 to \$12 per hour. According to their job description, they repair and maintain machinery and mechanical equipment throughout the hospital complex, grounds and other facilities. Their responsibilities include doing a variety of plumbing, pipe fitting, carpentry, electrical, painting, and mechanical work. In the winter, the general maintenance employees remove snow from hospital parking lots and sidewalks, using shovels and truck snow plows. In the summer, they mow the lawn, maintain flower beds, and do general repairs on the groundskeeping equipment. They do minor repairs inside the Employer's facilities and assist with parade floats and other outdoor events.

Skilled maintenance employees make approximately \$14 per hour. There are 9 or 10 employees in this position. They also wear a uniform of brown shirts and shorts or pants and report to Brian White. According to their job description, they perform maintenance work in their specific skill or trade, and perform general routine maintenance tasks as needed, such as miscellaneous plumbing, pipe fitting, carpentry, electrical, painting and mechanical work. Skilled maintenance employees also work on the hospital grounds doing snow removal and other tasks.

All of the skilled maintenance employees have a certification in general mechanics. They are certified by taking a six-week course and passing an exam from a healthcare mechanics organization. The certification is not issued by the hospital. Although the skilled maintenance job description contains categories for electricians,

plumbers and other trades, only one employee, an HVAC technician, is certified in a specific trade. The general mechanics certification gives the skilled maintenance employees basic knowledge of plumbing, carpentry and other mechanical skills. They are regularly assigned to the day shift, and work evenings and weekends on a rotating, on-call basis.

Work orders for the maintenance staff, skilled and unskilled, are sent to the maintenance department electronically by the various hospital departments and offices. Jobs are then assigned according to the availability and skill of the employees. The assignments are made either by White or by department manager Brent West, using a walkie-talkie system. The assignments involve repairs inside the hospital, such as repairing faucets, repairing electrical shorts, installing and testing sound systems, and installing air conditioners. Maintenance employees may be assigned to the main campus or a satellite office.

Medical assistants- non-MMA

There are four or five medical assistants working at non-MMA locations. They work at the pain clinic on the main campus and the Employer's weight management program at the "strip mall" location in Owosso. Their pay and job duties are comparable to that of the MMA medical assistants.

Nurse externs

Nurse externs are students enrolled in registered nursing programs at nearby colleges. These programs are not affiliated with the hospital. The nurse externs normally work at the hospital during the summer, when classes are not in session. They do not receive class credit for their work and the Employer does not communicate with their educational institution about their job performance. Nurse externs perform the same functions as nurse techs, using some additional skills learned in their RN program. They earn between \$9 to \$10 per hour and work side-by-side with nurse techs, LPN's and RN's. There are two or three employees in this position. Nurse externs are supervised by the nursing manager of the unit to which they are assigned.

Student nurse techs

About 80% of the nurse externs go on to become student nurse techs. Student nurse techs normally work during the school year and stay for the length of their schooling, which usually takes two to four years. Most have a part-time or flexible schedule to accommodate their class load. Some student nurse techs fill in for regular nurse techs on an on-call basis. Their job functions and pay are comparable to nurse techs. The student nurse techs do not receive course credit for their work at the hospital.

Most end up taking permanent jobs as registered nurses after graduation. They report to the nursing manager on the floor to which they are assigned. There are approximately 8 to 10 student nurse techs currently employed by the Employer at its main campus hospital.

Radiology lab clerks

Radiology lab clerks act as the point of reception for patients coming into the radiology area. No special certification or licensing is required for this position and the pay is \$9 to \$10 per hour. The radiology lab clerks report to the manager of the lab or radiology unit where they are assigned.

Release of info techs

Release of info techs work in the medical records department at the main campus assisting patients in obtaining records. There are two or three employees working in this classification and they earn between \$10 to \$12 per hour. Their pay is comparable to that of the medical records techs included in the petitioned-for unit and they have frequent interaction with those employees. At least one patient care secretary, a petitioned-for classification, performs some release of information work during the night shift when the release of info techs are not there. The release of info techs report to Director of Information Rena Schwarz.

Safety/physical plant secretary

The safety/ physical plant secretary answers phone calls and processes work orders for the safety/ physical plant department, which is located on the Employer's main campus. The position pays between \$8 to \$10 per hour and the secretary reports to Brian White, the director of the physical plant.

Shuttle drivers

Shuttle drivers earn between \$8 to \$9 per hour. They drive a hospital van and shuttle patients between the Employer's facilities.

Staff scheduler

The one staff scheduler ensures adequate staffing of the nursing unit in the main campus hospital. She reports to Ken Teremi, the Employer's director of acute services. The position pays between \$10 to \$12 per hour. The Employer asserts that this classification is similar to the scheduler classification included in the petitioned-for unit.

Surgical service secretaries

The surgical service secretaries answer phones and do general secretarial work for the surgery department. They receive the same pay and benefits as the general secretary classification included in the petitioned-for unit.

Telemetry techs

Telemetry techs are nurse techs who have additional training to read telemetry strips that print out information on vitals while they are at the unit desk. No special license or certification is required for this position. The telemetry techs work on various nursing units and report to the manager of the unit where they are assigned.

Exclusion Sought by the Employer

The Employer asserts that the switchboard operators/communication clerks must be excluded on the grounds that it is a business office clerical position. Switchboard operators/ communications clerks work in the central call center on the main campus. They receive and direct telephone calls coming into the hospital. There are eight employees in this position. The position pays between \$9 to \$10 per hour. The call center is located near the patient registration area. The record indicates that the patient registration clerk takes over the switchboard duties during the night shift and patient care secretaries work on the switchboard when needed.

Analysis

Scope of unit-MMA facilities

There is normally a presumption in favor of a single facility unit in the healthcare industry. *Mercy Medical Center San Juan*, 344 NLRB No. 93, slip op. at 1 (June 1, 2005), and cases cited. However, that presumption is not appropriate when the Petitioner seeks to represent a multi-facility unit. *Stormont-Vail Healthcare, Inc.*, 340 NLRB No. 143, slip op. at 3, fn. 10 (Nov. 28, 2003). Therefore, the appropriate analysis in determining whether the MMA employees should be included in the bargaining unit is whether they have a distinct community of interest from other employees included in the multi-facility unit. *Id.* at 4.

The factors used in determining the appropriateness of a multi-facility unit are: employee skills and duties; terms and conditions of employment; employee interchange; functional integration, geographic proximity; centralized control of management and supervision; and bargaining history. *Id.* at 3; *Mercy Medical Center San Juan*, supra.

MMA employees have similar skills and duties to other employees in the petitioned-for unit. Two MMA titles, transcriptionist and receptionist, are included in the unit sought by Petitioner and have main campus counterparts. The medical assistants have similar pay, training and duties to the nurse techs located on the main campus. They have the same job title and duties as medical assistants located at the Employer's Healthy Images and pain clinic located at its M-52 "strip mall" offices. The file clerks have similar pay and perform similar functions as other clerks included in the petitioned-for unit. The coder analyst position requires only six weeks of training and knowledge of a limited number of codes. The record evidence is that it is mainly clerical in nature. All Memorial Healthcare employees, both MMA and non-MMA, have the same benefit package, are subject to the same personnel policies and disciplinary procedure, wear identical name tags, have the same dress code, and are evaluated on identical forms. Open positions are posted on a system-wide basis and employees may transfer from MMA positions to other positions and vice versa with no loss of seniority. All employees receive the same employee discounts, and receive orientation and safety training on the Employer's main campus. Personnel files for all employees are kept at the Employer's human resources office on the main campus.

The MMA offices have a high degree of functional integration with the other hospital facilities. Patients may transfer from one facility to another without being discharged or readmitted. All facilities use the same computerized patient registration system. Employees punch in on a system-wide phone system and have access to a system-wide interoffice mail service. MMA employees also have significant contact with other employees. Some MMA offices are located in the same facilities as other hospital departments. In addition, MMA employees make appointments for patients when they visit the Employer's main campus. Maintenance, human resource staff, pharmacy employees, and risk management staff regularly visit the MMA offices, and a float pool of receptionists and medical assistants move from office to office.

The Employer's system is highly centralized, and the MMA offices are well integrated with the rest of the Employer's system. The petitioned-for unit arbitrarily includes only some of the Employer's outlying facilities. There is no record evidence showing that the MMA offices share a community of interest distinct from other facilities outside the main hospital. *Stormont-Vail*, supra at 5. Consequently, I find that the appropriate unit must include all the MMA facilities and the classifications employed at those facilities.

Additional Inclusions

Under the Board's *Rulemaking*, 53 Fed. Reg. 33900, 284 NLRB 1515 et seq. (1988), only the following units are appropriate in an acute care hospital: 1. All registered nurses. 2. All physicians. 3. All professionals except for registered nurses

and physicians. 4. All technical employees. 5. All skilled maintenance employees. 6. All business office clerical employees. 7. All guards. 8. All other nonprofessional employees. The unit sought here falls under the category of “all other nonprofessional employees.”

The record evidence shows that the call center specialists, diet office techs,⁶ education department coordinator, non-MMA medical assistants, radiology lab clerks, release of info techs, the safety/ physical plant secretary, staff scheduler,⁷ surgical service secretaries and telemetry techs⁸ all perform basic patient care or clerical duties that do not require extensive education or training and are similar to classifications listed in the petitioned-for unit.

The chef has similar job duties to the cooks included in the petitioned-for unit. Petitioner contends the chef is a supervisor. However, there is no record evidence that she has any of the supervisory indicia defined in Section 2(11) of the Act. She does have the responsibility of ensuring the kitchen is adequately staffed, but there is no evidence that this involves more than routine, clerical decisions. *Youville Health Care Center, Inc.*, 326 NLRB 495, 496 (1998).

The nurse externs and student nurse techs perform job functions and have pay rates similar to that of nurse techs. They do not receive educational credit for their work. They have regular schedules and a majority of them go on to become permanent hospital employees. There is no significant difference between the nurse externs, the student nurse techs, and the nurse techs other than the fact that the nurse externs and student nurse techs also happen to be students in their time away from the hospital. *Mount Sinai Hospital*, 233 NLRB 507, 508 (1977). Nurse externs work only during the summer and student nurse techs work only while they are in school. However, contingent employees are included in the petitioned-for unit and there is no record evidence that the nurse externs and student nurse techs have less regular schedules than contingent employees. There is also no record evidence that the nurse externs or student nurse techs receive different wage rates or benefits or perform different job functions than the nurse techs. See *Rhode Island Hospital*, 313 NLRB 343, 365-366 (1993)(pharmacy students).

⁶ Based on the discussion above regarding this classification, I find that it replaces the dietary office clerk classification sought by Petitioner.

⁷ In its brief, Petitioner contends that the staff scheduler should be in an RN unit because she is responsible for staffing the nursing units and is only responsible for scheduling RNs. There is no record evidence that the staff scheduler is an RN.

⁸ Evidence was introduced at the hearing that the hospital is no longer training employees to read telemetry strips. Petitioner contends that there should not be a separate telemetry tech classification in the unit because the position no longer exists. However, the record evidence shows that some patient care secretaries currently have special training as telemetry techs and may hold a separate title.

The shuttle drivers transport patients between the Employer's facilities in a hospital van. Petitioner contended at the hearing that this is a volunteer position. However, the Employer presented testimony that paid employees drive hospital vans and the unpaid volunteers referenced by Petitioner drive golf carts on the main campus grounds. There is no record evidence that the shuttle drivers perform security or supervisory functions.

All of the above classifications have similar pay and benefits, involve performing tasks that are basically routine in nature, and do not require extensive education or training. None of the positions are supervisory, technical, or professional in nature. Consequently, I find that the above classifications should be included in the nonprofessional unit sought by Petitioner.

In its Healthcare Rulemaking, the Board distinguished between business office clericals and other clericals, noting that the former usually handle finances, billing and other reimbursement systems, are generally supervised separately in business office departments, and have little interaction with other nonprofessionals. *Id.* at 359; *Rulemaking*, supra at 1565.

The Board has found that switchboard operators are business office clericals when they are separately located and supervised in the business office. *St. Claude General Hospital*, 219 NLRB 991 (1975). Receptionists/switchboard operators have been found not to be business office clericals when they are located apart from the main business office. *Lincoln Park Nursing Home*, 318 NLRB 1160, 1164-1165 (1995). The switchboard operators/communications clerks work in the main campus hospital near the patient registration clerks. The patient registration clerks and patient care secretaries take over for the switchboard operators at night. The rationale used by the Board in creating a separate unit of business office clericals in acute care hospitals does not apply to the switchboard operators/communications clerks at issue here. Therefore, I find that they should be included in the nonprofessional unit sought by the Petitioner.

Maintenance employees

In its *Rulemaking*, 53 Fed. Reg. 33900, 33923-24, 284 NLRB at 1561 (1988), the Board stated that "skilled maintenance units should generally include all employees involved in the maintenance, repair and operation of the hospital's physical plant systems, as well as their trainees, helpers, and assistants." Among the classifications that should generally be included are HVAC technician and mechanics. Relatively unskilled workers may be included "if they are involved in the maintenance, repair, and operation of hospitals' physical plant systems, or if they are part of a separate maintenance department." *Id.* at 33924, and 1562.

The Employer has a single maintenance department that encompasses both the skilled and general maintenance positions. All maintenance employees wear the same uniform, have the same supervisor, and receive assignments via walkie-talkie. While the general maintenance employees spend more time on the grounds and the skilled maintenance spend more time inside the Employer's facilities, both do work on the grounds, such as snow removal, and both do repair work inside the hospital and other outlying offices.

The job descriptions for the maintenance employees include descriptions for such skilled trades as electrician and plumber. One of the maintenance employees is an HVAC technician and all of the maintenance employees classified as "skilled" by the Employer have a certification in general mechanics. The Board has described skilled maintenance positions as typically requiring some vocational or trade school, or informal or formal apprenticeship programs. *Id.* at 33920 and 1557. Other hallmarks of a skilled maintenance unit are separate supervision; higher wage rates; only incidental involvement with employees outside their department, and no direct involvement in patient care. *Ingalls Memorial Hospital*, 309 NLRB 393, 394 (1992). Employees who assist skilled trades employees in the performance of their work may also be placed in the skilled trades unit. *Id.* at 394-395.

The record evidence shows that all of the maintenance employees have their own uniforms, have separate supervision from other hospital employees, and earn more per hour than many of the employees in the petitioned-for unit. There are no patient care duties listed in their job descriptions. The record evidence shows that the maintenance employees are responsible for maintaining and repairing the hospital's physical plant systems, such as its sound systems, repairing faucets, repairing electrical shorts, installing and testing sound systems, and installing air conditioners. Consequently, I find that the maintenance employees should be excluded from the nonprofessional unit because they belong in a separate skilled maintenance unit.

Conclusion

In view of the foregoing, I find that the following employees constitute a unit appropriate for the purposes of collective bargaining within the meaning of Section 9(b) of the Act:⁹

All full-time, regular part-time and contingent nonprofessional employees,

⁹ As a larger unit was found appropriate herein, Petitioner is accorded a period of 14 days from the date of this Decision and Direction of Election in which to submit to the undersigned an additional showing of interest. If no additional showing of interest is submitted, the petition will be dismissed. In the event Petitioner does not wish to proceed with the election, it may withdraw its petition without prejudice by notice to the undersigned within 7 days from the date of this Decision and Direction of Election.

including activity techs, anesthesia assistants, call center specialists, chefs, clerks, coder analysts, cooks, couriers, CP assistants, custodians, diet office aides/cashiers, diet office techs, dietary secretaries, dietary techs, discharge clerks, education department secretaries, education department coordinators, exchange cart room assistants, file clerks, home health aides, home health hospice secretaries, hospice support, housekeeping aides, instrument nurse techs, lab tech assistants, laundry aides, long-term care techs, medical assistants, medical records techs, mobile meals setup/delivery techs, nurse externs, nurse techs, patient care secretaries, patient care techs, patient registration clerks, patient support assistants, pharmacy techs one, phlebotomist/tech assistants, physical therapy techs, production, radiology lab clerks, receptionists, receiving clerks, release of info techs, safety/physical plant secretary, secretaries, scheduling secretaries, shuttle drivers, sitters, staff scheduler, sterile process techs, store room assistants, student nurse techs, surgical service secretaries, switchboard operators/ communications clerks, tech assistants, telemetry techs, transcriptionists, and washers employed by the Employer at its facilities located at 826 West King Street, Owosso, Michigan; 1470-1488 North M 52, Owosso, Michigan; 239 North State Road, Owosso, Michigan; 114 West North Street, Owosso, Michigan; 9099 East Lansing Road, Durand, Michigan; 3337 West Britton, Perry, Michigan; 113 South Main Street, Ovid, Michigan; 225 South Ovid, Elsie, Michigan; 7200 North Woodbury Road, Laingsburg, Michigan; 8906 East Lansing Road, Durand, Michigan; 300 South Chapman, Chesaning, Michigan; 9000 East Pete Road, Chesaning, Michigan; and 305 South Saginaw, Chesaning, Michigan; but excluding all physicians, registered nurses, other professionals, technical records coordinators, coders, department head secretaries, administrative/executive assistants to the president or vice presidents, human resource coordinators, community health ministry liaisons, professional intake specialists, patient care supervisors, business office clerical employees, technical employees, maintenance employees, pharmacy computer specialists, specialty techs, intake specialists, surgery inventory coordinators, managerial employees, confidential employees, and guards and supervisors as defined in the Act.

Those eligible to vote shall vote as set forth in the attached Direction of Election.

Dated at Detroit, Michigan, this 8th day of July, 2005.

(SEAL)

"/s/ [Stephen M. Glasser]."

/s/ Stephen M. Glasser

Stephen M. Glasser, Regional Director
National Labor Relations Board

Patrick V. McNamara Federal Building
477 Michigan Avenue –Room 300
Detroit, Michigan 48226

DIRECTION OF ELECTION

An election by secret ballot shall be conducted under the direction and supervision of this office among the employees in the unit(s) found appropriate at the time and place set forth in the notice of election to be issued subsequently, subject to the Board's Rules and Regulations. Eligible to vote are those employees in the unit(s) who were employed during the payroll period ending immediately preceding the date of this Decision, including employees who did not work during that period because they were ill, on vacation, or temporarily laid off. Employees engaged in an economic strike, who have retained their status as strikers and who have not been permanently replaced are also eligible to vote. In addition, in an economic strike which commenced less than 12 months before the election date, employees engaged in such a strike who have retained their status as strikers but who have been permanently replaced, as well as their replacements, are eligible to vote. Employees who are otherwise eligible but who are in the military service of the United States may vote if they appear in person at the polls. Ineligible to vote are 1) employees who quit or are discharged for cause after the designated payroll period for eligibility, 2) employees engaged in a strike, who have quit or been discharged for cause since the commencement thereof and who have not been rehired or reinstated before the election date, and 3) employees engaged in an economic strike which commenced more than 12 months before the election date and who have been permanently replaced. Those eligible shall vote whether or not they desire to be represented for collective bargaining purposes by:

MICHIGAN COUNCIL 25, AMERICAN FEDERATION OF STATE, COUNTY, AND MUNICIPAL EMPLOYEES (AFSCME), AFL-CIO

LIST OF VOTERS

In order to ensure that all eligible voters may have the opportunity to be informed of the issues in the exercise of their statutory right to vote, all parties to the election should have access to a list of voters and their addresses which may be used to communicate with them. *Excelsior Underwear, Inc.*, 156 NLRB 1236 (1966); *NLRB v. Wyman-Gordon Company*, 394 U.S. 759 (1969); *North Macon Health Care Facility*, 315 NLRB 359 (1994). Accordingly, it is hereby directed that **within 7 days** of the date of this Decision, **2** copies of an election eligibility list, containing the full names and addresses of all the eligible voters, shall be filed by the Employer with the undersigned who shall make the list available to all parties to the election. The list must be of sufficient clarity to be clearly legible. The list may be submitted by facsimile or E-mail transmission, in which case only one copy need be submitted. In order to be timely filed, such list must be received in the **DETROIT REGIONAL OFFICE** on or before **July 15, 2005**. No extension of time to file this list shall be granted except in extraordinary circumstances, nor shall the filing of a request for review operate to stay the requirement

here imposed.

RIGHT TO REQUEST REVIEW

Under the provisions of Section 102.67 of the Board's Rules and Regulations, a request for review of this Decision may be filed with the National Labor Relations Board, addressed to the **Executive Secretary, Franklin Court, 1099 14th Street N.W., Washington D.C. 20570**. This request must be received by the Board in Washington by **July 22, 2005**.

POSTING OF ELECTION NOTICES

a. Employers shall post copies of the Board's official Notice of Election in conspicuous places at least 3 full working days prior to 12:01 a.m. of the day of the election. In elections involving mail ballots, the election shall be deemed to have commenced the day the ballots are deposited by the Regional Office in the mail. In all cases, the notices shall remain posted until the end of the election.

b. The term "working day" shall mean an entire 24-hour period excluding Saturday, Sundays, and holidays.

c. A party shall be estopped from objecting to nonposting of notices if it is responsible for the nonposting. An employer shall be conclusively deemed to have received copies of the election notice for posting unless it notifies the Regional Office at least 5 days prior to the commencement of the election that it has not received copies of the election notice. */

d. Failure to post the election notices as required herein shall be grounds for setting aside the election whenever proper and timely objections are filed under the provisions of Section 102.69(a).

*/ Section 103.20 (c) of the Board's Rules is interpreted as requiring an employer to notify the Regional Office at least 5 full working days prior to 12:01 a.m. of the day of the election that it has not received copies of the election notice.